

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 AF-08 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 SS-15

NSC-05 L-03 H-02 PRS-01 PA-01 NSCE-00 SSO-00 USIE-00

INRE-00 /065 W

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O 271047Z SEP 76

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 5909

INFO AMEMBASSY NAIROBI IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 LONDON 15302

E.O. 11652: GDS

TAGS: EAIR, UK

SUBJECT: US-UK AVIATION DISPUTE

FROM BILLER FOR EB/OA MR. STYLES

1. SUMMARY: THREE HOUR MEETING WITH DOT AND FCO OFFICIALS FAILED TO RESOLVE DISPUTE OVER MIAMI-LONDON A CHICAGO-LONDON CAPACITY. OUR IMPRESSION, HOWEVER, IS THAT THERE STILL IS A CHANCE THAT ULTIMATELY UK WILL ACQUIESCE IN LEVELS OF CAPACITY PROPOSED BY US CARRIERS. ABRUPT ESCALATION OF HONG KONG-SYDNEY ISSUE WAS ADMITTED BY UK TO BE TACTICAL BARGAINING COUNTER WHICH THEY ARE PREPARED TO EXCHANGE FOR US FOREBEARANCE ON RETALIATION. END SUMMARY.

2. ROGERS (DOT) SAID THAT UK CAPACITY ORDER REPRESENTED MINIMUM LEVEL THAT THEY COULD ACCEPT. HE WAS NOT WILLING TO AGREE TO SOLUTION ON BASIS OF LATEST US AIRLINE PROPOSALS (5 WEEKLY CHICAGO-LONDON EXCEPT 4 WEEKLY DURING JAN. 15-MARCH 15 AND 6 WEEKLY MIAMI-LONDON WITH STEPS BY BRITISH AIRWAYS TO EQUATE B-747 CAPACITY TO THAT OF DC-10). HE ATTEMPTED AT VARIOUS TIMES TO INTRODUCE INTO  
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BARGAIN PANAM ATLANTIC AND PACIFIC FREQUENCIES, ECONOMY

FARES, AND FURTHER REDUCTIONS BY TWA AND NATIONAL. WE REJECTED ALL OF THESE EFFORTS ON GROUNDS THAT EITHER THEY WERE INFEASIBLE OR RESULT WOULD BE BROADENING RATHER THAN NARROWING OF PROBLEM.

3. ROGERS SUGGESTED THAT US ACQUIESCE IN UK ACTION ON MIAMI AND CHICAGO. IN EXCHANGE UK WOULD GIVE ASSURANCES NOT TO ACT ON SUMMER CAPACITY AND WOULD ALLOW PANAM TO CONTINUE ON HONG KONG-SYDNEY UNTIL FEB. 1, 1977, SUBJECT TO LIMITATION IN FIFTH FREEDOM TRAFFIC. WE EXPLAINED THAT, AS HAD BEEN DESCRIBED TO HIM ON SEPTEMBER 9, WE HAD CONSIDERED AND REJECTED OPTION OF ACQUIESCENCE. WE REVIEWED FULLY WHY US ATTACHED IMPORTANCE TO CAPACITY ISSUE, RELATING IT TO BERMUDA RENEGOTIATIONS. AS FOR HONG KONG-SYDNEY, WE POINTED OUT THAT IN OUR VIEW WE HAD RIGHTS TO CHANGE GAUGE IN SYDNEY, SO THAT WE WERE BEING ASKED TO GIVE UP SOMETHING TO WHICH WE WERE ENTITLED. AS FOR HONG KONG-SYDNEY FIFTH FREEDOM TRAFFIC, WE REMAINED WILLING TO NEGOTIATE AN ACCEPTABLE LEVEL.

4. ROGERS ASKED WHETHER WE WOULD DESCRIBE TO HIM WHAT "MODERATE RETALIATION" BY US MIGHT BE. HE PROPOSED THAT, IF THAT COURSE IS FOLLOWED, EXACT FORM OF RETALIATION SHOULD BE NEGOTIATED SO THAT WE COULD BE SURE THAT IT WOULD NOT TRIGGER COUNTER-RETALIATION BY UK. WE REPLIED THAT CAB WAS STUDYING VARIOUS ALTERNATIVES AND THAT WE HAD CONFIDENCE IN OUR ABILITY TO FRAME A RETALIATORY ACTION WHICH WOULD HAVE THE EFFECT WE WANT. ROGERS SAID THAT UK WAS ALSO STUDYING POSSIBILITIES AND HAD SO FAR CONCLUDED THAT THE ONLY RETALIATION THEY MIGHT CONSIDER APPROPRIATE WOULD BE ON BA'S PRESTWICK-NEW YORK ROUTE OR BA'S FIFTH FREEDOM RIGHTS IN ANCHORAGE. THE OTHER OPTIONS, HE SAID, WOULD RESULT IN AN IMBALANCE BETWEEN BA AND US AIRLINES, WHICH UK WOULD FEEL COMPELLED TO REDRESS.

5. ROGERS ADMITTED THAT SEPTEMBER 23 UK ORDER ON HONG KONG WAS TAKEN SOLELY FOR TACTICAL REASONS. HE DID NOT SERIOUSLY COUNTER OUR ARGUMENT THAT SUBSTANCE OF BRITISH COMPLAINT COULD BE READILY ANSWERED BY OUR EARLIER OFFER TO NEGOTIATE FIFTH FREEDOM LEVELS AND TERMINATE PANAM CONFIDENTIAL

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FLIGHTS ON FEBRUARY 1. HE EQUATED UK ORDER ISSUED SEPT. 23 WITH CAB ORDER ISSUED SEPT. 17, SAYING THAT BOTH WERE MERELY WARNING NOTICES. WE POINTED OUT THAT THERE WERE IMPORTANT DIFFERENCES. AMONG THESE WAS FACT THAT UK ORDER WOULD RESULT IN ACTION BY OCTOBER 1 WHICH WOULD GREATLY COMPLICATE SUCCESSFUL RESOLUTION OF MIAMI AND CHICAGO ISSUE, EVEN IF SUCCESS IS TO BE MEASURED IN TERMS OF OUR TAKING "MODERATE" RETALIATION. ROGERS AGREED THAT

THE RELATIONSHIP WAS IMPORTANT AND SUGGESTED THAT CAB  
POSTPONE DATE FOR COMPLIANCE WITH PART 213 ORDER IN  
EXCHANGE FOR UK POSTPONEMENT OF DATE FOR COMPLIANCE WITH  
HONG KONG ORDER. WE REJECTED THIS OUT OF HAND. IT WAS  
AT THIS POINT THAT WE WERE INFORMED THAT BA, AT REQUEST  
OF UK AUTHORITIES, HAD NOT FILED ITS SCHEDULES BY SEPT.

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 5910

INFO AMEMBASSY NAIROBI IMMEDIATE

C O N F I D E N T I A L SECTION 02 OF 03 LONDON 15302

24. WE EXPRESSED OUR VERY STRONG VIEW THAT THIS HAD BEEN  
SERIOUS LEGAL AND TACTICAL ERROR. FOLLOWING LENGTHY DIS-  
CUSSION, ROGS SAID THAT SUBJECT TO FINAL CONCURRENCE BY  
LEGAL EXPERTS BA WOULD FILE THEIR SCHEDULES. AS FOR NEW  
PROBLEM POSED BY UNFORTUNATE TIMING OF HONG KONG ORDER,  
IF PANAM SUBMITS REPLY BY SEPT. 28, UK WILL POSTPONE  
TAKING ACTION UNDER THAT ORDER UNTIL US TAKES ACTION PUR-  
SUANT TO CAB PART 213 ORDER. IN THE MEANTIME, ROGERS  
SUGGESTS THAT, AS ORIGINALLY PROPOSED, WE NEGOTIATE SAT-  
ISFACTORY FIFTH FREEDOM LEVELS. ROGERS SAID THAT HE  
THOUGHT THAT 10 PASSENGERS PER FLIGHT IN EACH DIRECTION  
WOULD BE ACCEPTABLE.

6. IN COURSE OF DISCUSSIONS ON BA FAILURE TO COMPLY WITH PART 213 ORDER, ROGERS POINTED OUT THAT IN ONE RESPECT IT HAD IMMEDIATE OPERATIONAL IMPACT AND WAS MORE THAN MERELY PROCEDURAL. THIS WAS IN REGARD TO REQUIREMENT THAT BA GIVE 30 DAY NOTICE OF ANY PROPOSED CHANGE OF SCHEDULE. WE EXPLAINED THAT PURPOSE WAS NOT PUNITIVE, BUT ONLY TO ASSURE CAB THAT SCHEDULE INFORMATION SUBMITTED TO IT WAS ACCURATE AND REALISTIC. ROGERS POINTED OUT THAT THERE CONFIDENTIAL

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COULD BE A SIGNIFICANT IMPACT FAIRLY SOON, HOWEVER, IN THAT BA INTENDS TO INTRODUCE A THIRD WASHINGTON-LONDON CONCORDE FREQUENCY IN ABOUT 10 DAYS. WE SUGGESTED THAT BEST COURSE WOULD BE FOR BA TO FILE SCHEDULES AS SOON AS POSSIBLE WITH NOTATION OF THIS INTENTION.

7. COMMENT:

A. MIAMI AND CHICAGO - OUR IMPRESSION IS THAT THERE STILL IS A REASONABLE CHANCE THAT UK MAY ULTIMATELY AGREE TO SETTLE ON BASIS OF TWA AND NATIONAL PROPOSALS. THEY ARE UNWILLING TO DO SO YET, HOWEVER, BECAUSE THEY FEEL THEY STILL HAVE TIME TO PRESS FOR FURTHER CONCESSIONS (EITHER RELATED, SUCH AS ELIMINATION OF BA ROPING OFF IN MIAMI, OR UNRELATED, SUCH AS CAPACITY REDUCTIONS ELSEWHERE). THEY ALSO WOULD LIKE TO BE ABLE TO COMPARE THE COST TO THEM OF RESCINDING THEIR UNILATERAL ORDER WITH THE COST OF WHATEVER OUR RETALIATORY ACTION MIGHT BE. THIS IS PROBABLY THE PRINCIPAL REASON FOR ROGERS' INQUIRIES ON OUR RETALIATION. (ACTION ON PRESTWICK-LONDON OR ANCHORAGE FIFTH FREEDOM WOULD PROBABLY BE PREFERABLE TO RECISION; STRONGER ACTION WOULD PROBABLY NOT BE.) CONSISTENT WITH THIS, ROGERS EXPRESSED GREAT INTEREST IN TIMING OF USG RETALIATORY PROCESS, PARTICULARLY DATE ON WHICH DECISION WOULD BECOME FINAL. OUR BEST COURSE WOULD SEEM TO BE TO MOVE STEADILY AHEAD WITH THAT PROCESS, MAKE CLEAR TO THE UK THAT WE ARE DOING SO, AND INFORM THE UK TO THE EXTENT WE ARE ABLE OF THE TIMING SO THAT THEY WILL NOT MISJUDGE THE LAST OPPORTUNITY THEY HAVE TO ACCEDE TO THE AIRLINE PLANS.

B. HONG KONG-SYDNEY - WE SHOULD MAINTAIN OUR STANCE OF RESPONSIBILITY, TAKING WHATEVER REASONABLE STEPS ARE POSSIBLE TO AVOID HAVING ANOTHER ISSUE ESCALATED TO THE POINT WHERE IT SERIOUSLY IMPEDES BERMUDA RENEGOTIATION. FOR THE IMMEDIATE FUTURE THIS MEANS CONSULTING WITH PANAM AND RESPONDING TO UK'S ACCEPTANCE OF OUR OFFER TO NEGOTIATE SATISFACTORY FIFTH FREEDOM LEVELS. PANAM SHOULD BE ENCOURAGED TO SUBMIT ITS VIEWS TO UK BY SEPT. 28, IF ONLY TO PRESERVE FORM. UK HAS RAISED HONG KONG-SYDNEY ONLY AS TACTICAL PLOY, AND IF THE MIAMI-CHICAGO

CAPACITY ISSUE IS RESOLVED THROUGH UK ACCEPTANCE OF  
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EITHER AIRLINE PROPOSALS OR MODERATE US RETALIATION, THE

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 5911

INFO AMEMBASSY NAIROBI IMMEDIATE

C O N F I D E N T I A L SECTION 03 OF 03 LONDON 15302

HONG KONG-SYDNEY ISSUE CAN BE RESOLVED ON BASIS OF EARLIER  
US OFFER.

8. ACTION REQUESTED:

(A) PANAM SHOULD BE ENCOURAGED TO RESPOND BY SEPT. 28  
TO UK REQUEST FOR REPLY ON HONG KONG-SYDNEY ORDER.

(B) DEPARTMENT SHOULD RESPOND BY OCT. 1 TO ROGERS'  
PROPOSAL FOR 10 FIFTH FREEDOM HONG KONG-SYDNEY PASSENGERS  
PER FLIGHT.

(C) EMBASSY LONDON SHOULD BE CABLED INFORMATION ON  
LIKELY TIMING OF USG RETALIATORY PROCESS FOR TRANSMISSION  
TO ROGERS.

9. SUBSEQUENT TO THE MEETING, ON SATURDAY EVENING,  
ROGERS CALLED CAA TO POINT OUT HE HAD JUST BEEN INFORMED  
THAT PART 213 SPECIFIES SCHEDULES MUST BE FILED WITHIN  
7 WORKING DAYS (RATHER THAN 7 CALENDAR DAYS). THEREFORE,  
BA STILL HAS UNTIL SEPT. 28 TO COMPLY WITH PART 213  
ORDER. IN VIEW OF THIS HE ASKED THAT EMBASSY TRY TO PUT  
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HIM IN CONTACT WITH MR. BILLER TO DETERMINE IF BILLER  
WOULD, IN VIEW OF CHANGED STATUS OF SITUATION, BE WILLING  
TO TRY TO OBTAIN DELAY OF FILING DATE BY CAB. CAA TOLD  
ROGERS THAT, WHILE HE DID NOT HAVE PART 213 TEXT BEFORE  
HIM, HE DID NOT RECALL ANY REFERENCE TO 7 WORKING DAYS.  
IN HIS VIEW, EVEN IF DEADLINE FOR FILING WERE SEPT. 28  
RATHER THAN SEPT. 24, IT STILL UNLIKELY THAT CAB FILING  
DATE COULD BE CHANGED ONCE ORDER HAD BEEN ISSUED. ROGERS  
NONETHELESS ASKED THAT HIS REQUEST FOR CONSERATION OF

CONTACTED AND TO WASHINGTON.

10. CAA WAS UNABLE TO PUT ROGERS IN CONTACT WITH  
MR. BILLER BUT TOLD ROGERS HIS REQUEST WOULD O O  
OUGHT  
TO DEOT'S ATTENTION.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Copy:** SINGLE  
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**Disposition Approved on Date:**  
**Disposition Authority:** coburnhl  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Document Unique ID:** 00  
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**Errors:** N/A  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** US-UK AVIATION DISPUTE FROM BILLER FOR EB/OA MR. STYLES  
**TAGS:** EAIR, UK, US  
**To:** STATE  
**Type:** TE  
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